



Jason Corley
Lubbock County Commissioner, Precinct 2
904 Broadway Street
Lubbock County, Texas 79401

February 18, 2019

Hon. Curtis Parrish
Lubbock County Judge
904 Broadway St.
Lubbock, TX 79401

Re: Response to January 30, 2019, Letter from Dr. Sam Andrews

On February 15, 2019, I received a copy of the attached letter from Dr. Sam Andrews, dated January 30, 2019. In the letter, Dr. Andrews alleges that I am interfering with the operations of the Lubbock County Medical Examiner's Office and defaming Dr. Andrews. Dr. Andrews alleges that I am doing these things with malice and to harm Lubbock County. I am writing to respond to the allegations contained in Dr. Andrews' letter.

When I entered office, I had serious concerns about the practices of the Lubbock Medical Examiner's Office ("ME's Office") under the National Autopsy Assay Group ("NAAG"), which is owned or operated by Dr. Evan Matshes. I sought to determine:

1. Whether the taxpayers are subsidizing the improper harvesting of body tissue of decedents at the ME's Office; and
2. Whether NAAG has violated its contract with Lubbock County.

The evidence, including sworn affidavits of multiple witnesses, indicates that the answer to both of these questions is in the affirmative.

I do not know why Sam Andrews thinks I have any malice towards him; I do not even know him. I have interacted with Sam Andrews in person one time, when he invited me to observe an autopsy on January 1, 2019, the date I assumed office. The next time I went to the Lubbock ME's premises was on January 18, 2019, when Dr. Andrews would not see me. The only things I know about Dr. Sam Andrews is what I have learned through my due diligence, detailed below, and is based on media reports of the other important cases he has botched, including:

1. The Bryan Canchola murder case in Travis County, where Andrews testimony was excluded as unreliable and "The judge was not amused," Fisher said. "He told the medical examiner that he was thoroughly disgusted."¹; and
2. The police shooting case concerning the death of James Boyd in Albuquerque, where Andrews changed his testimony regarding the cause of death.²

Public media reports that the Lubbock ME disregarded a subpoena from the Texas Medical Board, on or about November 2, 2018, fourteen days after the Texas Medical Board served a Subpoena Duces Tecum on the Lubbock ME. Apparently the Lubbock ME ignored this subpoena.

And in the prosecution of Charity Ellis in Travis County, which concluded last week in a not guilty verdict, the Travis County DA's office elected not to call Sam Andrews because of his credibility issues.³

Now the Lubbock DA's office is sending the Lubbock defense bar impeachment material disclosures because Dr. Sam Andrews testimony may be undermined by his conduct and the pending Texas Rangers and Texas Medical Board investigations. I have only been motivated by my duty to exercise oversight, to protect our citizens, and ensure the contract is being honored.

Unauthorized practice of medicine

On August 14, 2018, when the remains of two deceased children were received by the Lubbock ME, Dr. Matshes performed the autopsies, while not being licensed to practice medicine in the state. He performed the evisceration and was photographed doing so. After being confronted with the photos and the issue of the unlicensed practice, he retrospectively claimed he was training the others present (including Dr. Andrews) on how he wanted autopsies performed under NAAG. He stated his opinions and gave Dr. Andrews directions about what to put in Dr. Andrews' report. Dr. Matshes believes he can hide behind the fiction that he was only operating as a morgue tech, but it is not so easy for a doctor to be anything other than a doctor, particularly when he is making forensic decisions, rendering opinions, and providing instructions to others present (including another MD). Dr. Matshes conduct constitutes the unlicensed practice of medicine.

This is a matter of public concern. The unlicensed practice of medicine (by Dr. Matshes) is a felony, and any person who aids, assists, or encourages, such activity (Dr. Andrews) is complicit and a party to that same crime. I was not elected to ignore the commission of felonies at taxpayer expense. Furthermore, when the criminal prosecution for homicides moves through the courts, the fact that an unlicensed individual led the autopsy would be a basis for the defense to challenge the conclusions reached during the autopsy and

¹ https://www.krqe.com/news/judge-forced-to-drop-murder-charge-over-former-unm-medical-examiners-unreliable-testimony_20180305061650188/1009288876

² <https://www.krqe.com/news/murder-trial-for-former-albuquerque-police-officers-to-resume-monday/900396451>

³ <https://www.statesman.com/news/20190215/austin-area-woman-not-guilty-in-fiancxe9s-fatal-shooting>

otherwise impeach the forensic evidence. This may impact the administration of justice in homicides.

It is, at the very least, information that must be provided to criminal defendants because it could affect issues of guilt/innocence and could be impeachment evidence. All the district attorneys all over the south plains who use the Lubbock ME are going to have to deal with the legal issues created by this situation, which will impact the administration of justice.

The research motivation

As you know, Dr. Matshes has published academic articles regarding shaken baby syndrome, including a 2011 article titled, "Shaken Infants Die of Neck Trauma, Not Brain Trauma," published in *Academic Forensic Pathology* 2011, 1(1): 82-91. His research and publication history indicate that he has a particular interest in the causes of death of young children.

Dr. Matshes's lack of access to medical examiner cases since approximately 2012—when he was fired from the Medical Examiner Offices in Calgary, Alberta, New Mexico, and Jacksonville, Florida—has negatively impacted his ability to have bodies for original research and continue the work he published in 2011. Dr. Matshes has an academic research motivation to harvest the tissues of young decedents, especially those who died of a natural death.

Plan to harvest tissue

NAAG provided written instructions to its employees, contractors, and/or agents regarding the procedures for "removing" and "preserving" tissue from children, including heart, lungs, brain, base of skull, cervical spine, and eyes. I don't know where Dr. Andrews comments about harvesting fingers comes from, but I have no information to confirm or refute that that occurred.

In August 2018, Dr. Matshes expressed his intentions with respect to the remains of two young children he expected to receive—one of which was a suspected homicide and one of which died as a result of an explosion. Dr. Matshes intended for the following to be entirely explanted and fixed in formalin, before shipment to NAAG's lab in San Diego:

- A. Heart;
- B. Lungs;
- C. Brain;
- D. Base of skull; and
- E. Cervical vertebral columns.

Obviously, the harvesting of these tissues from the remains of the child who died as a result of an explosion was not forensically justified.

Dr. Matshes harvested and retained tissue from Z.G. while unlicensed to practice medicine

With respect to the autopsy of the first child, whose initials were Z.G., on August 14, 2018, Dr. Matshes harvested the organs, the cervical spinal column, and the eyes of the

deceased child. All of this was done without a license for Dr. Matshes to practice medicine in the State of Texas.

Dr. Matshes harvested and retained excessive tissue from D.T., while unlicensed

With respect to the autopsy of D.T., who was approximately three or four years of age, on August 14, 2018, it was abundantly clear that the cause of death was an accidental natural gas explosion. The gas line that ran under the mobile home was leaking.



There was no suspicion of homicide; it was clearly an accidental death. The normal practice following such a death would be to perform a standard autopsy, with preservation of small, exemplary portions of tissue from each organ for potential microscopic inspection, never whole organs. Dr. Matshes harvested whole organs (including brain, heart, and lungs), removed the cervical spinal column (including spinal cord), and the eyes. There would have been no forensic justification for harvesting whole organs, considering the history of the child's death. Again, all of this was done by Dr. Matshes without a license to practice medicine in the State of Texas.

All of these organs retained in this case are the same ones retained in the potential homicide autopsy, for Dr. Matshes to have parallel comparisons for his research.

Drs. Andrews and Matshes harvested and retained excessive tissue from a female infant, while Matshes unlicensed

Around the end of September of 2018, Drs. Andrews and Matshes performed an autopsy on a female infant (approximately one to two months old) who died of meningitis. Dr. Matshes performed part or all of the evisceration. The cause of death was clearly natural: the result of a natural disease process, which was well documented in the child's medical records. The normal process in such a situation is for the ME's Office to "terminate

jurisdiction"; there was no forensic justification for an autopsy on this child. There was no question as to the cause of death, which became increasingly clear upon opening her skull, but Dr. Matshes stated, "We need more naturals like this for research." Drs. Andrews and Matshes harvested the baby's brain, eyes, spinal cord, posterior neck, heart, and lungs. There was no consent from the next-of-kin to harvest this tissue from this infant.

This baby, who died of natural causes, was mutilated. How do you think her family would feel about that fact? And for what? So Dr. Matshes could continue his research on shaken baby homicides? This would be devastating to a family that just lost a child.

After being harvested, the tissue was shipped to NAAG's facility in San Diego. It was during this autopsy that Dr. Matshes made a comment that was found repugnant by at least one member of his staff: In the context of minimizing what tissue he had taken from this child's remains, he said, "This is nothing. A couple days ago, I did a case where you could have rolled the baby up and put it in a cup." The staff member found the comment very disturbing and demonstrative of his lack of respect for the dead and their family.

NAAG has violated its contract with Lubbock County

There have been multiple deceased young children from whom NAAG, Dr. Matshes, and Dr. Andrews have harvested excessive tissue, without forensic justification. Dr. Matshes has made statements indicating that he is motivated by a desire to conduct research using the tissue he is harvesting from these deceased children, and such research is consistent with his past academic work.

The collection of the tissue from these decedents, and any others who remains were similarly treated, was not for a legitimate forensic purpose and was outside of the professional standards for a medical examiner. The National Association of Medical Examiner's best practices guidelines prohibit such tissue collection without family consent; tissue removed from a decedent may only be used to determine and certify the cause and manner of death and the identity of the decedent. The removal and retention of tissue for research purposes is not permitted under any justification, ethical standards, or standard of care.

NAAG agreed to follow best practices guidelines and has failed to do so, thereby violating their contract with Lubbock County.

Conclusion

Several people with personal knowledge have provided sworn affidavits attesting to the foregoing facts, and I believe them to be true. Dr. Andrews has attempted to discredit me by making a criminal referral to the Lubbock County Criminal District Attorney's Office, alleging that I am obstructing governmental operations or engaging in official oppression, and suggesting that I am motivated by malice. For trying to get to the bottom of the foregoing facts? I will not be intimidated by his tactics. I have a job to do and I'm going to do it.

And, yes, I indicated that I wanted to be present for autopsies of any person under the age of 10 because I want to make sure this is not an ongoing practice. And while it is something I have no desire to witness, it seemed necessary to refute the allegations or stop the illegal practices.

Dr. Andrews' outrageous suggestion that I had another motivation for being present is false, baseless and intended as a distraction. The ME's Office answers to the Commissioner's Court and I was exercising oversight, as required by my elected office, to protect the citizens of Lubbock County.

As the Commissioners of the County of Lubbock, we represent the citizens of our county. And we are the stewards of the County's tax revenues. We are entitled to, and have a duty to, exercise oversight regarding county contracts. The conduct of NAAG, Sam Andrews, and Evan Matshes justifies terminating the contract with NAAG and finding a new ME.

I call on my fellow Commissioners to have the courage to stand up for what is right, rather than hiding from this controversy. If we don't, the county is going to get sued, the administration of justice will be impacted, and additional families living here in West Texas are going to be harmed. I cannot permit the mutilation of the bodies of babies, with our tax dollars, on our watch. Not in our county. Let's do what's right and let's do it now. We all know, and now we all have a duty to put an end to it.

Sincerely,



Jason Corley
County Commissioner, Pct. 2

cc: Sam Andrews, MD
Sunshine Stanek, Lubbock County Criminal District Attorney
Neal Burt, Assistant District Attorney
Morgan Vaughan, Assistant District Attorney
National Association of Medical Examiners